



## Decision

Matter of: White Office Systems, Inc.

File: B-227845

Date: September, 8, 1987

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### DIGEST

1. When placing an order under a mandatory, multiple-award Federal Supply Schedule, a contracting agency is not required to select the lowest priced vendor where the agency reasonably determines that only the higher priced vendor's product offers features necessary for effective performance.
2. Justification for placing order under Federal Supply Schedule (FSS) with the higher priced vendor may be based on considerations not identified in the request for quotations (RFQ) since RFQ is intended merely to identify suitable equipment listed in FSS.

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### DECISION

White Office Systems, Inc. protests the award of purchase order No. 546-7A0090 for a mobile shelving system to the Spacesaver Corporation, which offered the second lowest price, by the Veterans Administration Medical Center (VA), Miami, Florida. White contends that its system meets VA's needs and, as the lowest price vendor, it should have received the award. White also contends that VA effectively precluded all vendors except Spacesaver from receiving the award by introducing new requirements which only the Spacesaver system could meet and by not advising other vendors of the new requirements.

We deny the protest.

Because the system being procured was on a mandatory, multiple-award, Federal Supply Schedule (FSS), VA solicited only those firms listed on the FSS. The firms were each given a tour of the area where the system was to be installed and were advised orally of the weight requirements for the desired system, the space that was available for the system, and the hours that the system would be used.

Each firm was requested orally to submit a quote on its highest quality product on the FSS at the lowest possible price. After examining the quotes received and systems already installed at various clinics, VA decided to make award to Spacesaver, notwithstanding that White had offered a lower priced system, because only Spacesaver's system had certain features which VA determined it needed. VA executed a determination to this effect, pursuant to the Federal Acquisition Regulation (FAR), 48 C.F.R. § 8.405-1(a) (1986), to justify its decision to award to other than the lowest quoter. In the determination, VA identified numerous features of the Spacesaver system which VA required for most effective performance and which the other systems, including White's, lacked. According to VA, the most important feature which only the Spacesaver system provides is a carriage that is not likely to be derailed from the track assembly. The system eliminates the possibility of derailment by using large-diameter wheels and lateral side bearings. In comparison, White's system uses a flanged-wheel design which VA states is identical to other systems previously purchased by VA which were easily derailed.

White contends that none of the reasons advanced by VA to justify the award is valid; that its system is a functional equivalent to Spacesaver's in all respects; and thus that, as the lowest priced vendor, it was entitled to award. White also argues that the procurement constituted an improper sole source purchase since VA changed its requirements to correspond to the product Spacesaver was offering and failed to advise the other offerors of the change.

Unlike an invitation for bids (IFB), where an award must be made to the low, responsible bidder whose bid is responsive to the specifications contained in the IFB, an agency ordering from an FSS schedule is not required to order from the lowest priced vendor if an appropriate justification exists for purchase from a higher priced vendor. See FAR, 48 C.F.R. § 8.405-1(a); Lanier Business Products, Inc., B-223675, Nov. 12, 1986, 86-2 CPD ¶ 551. Thus, for example, an agency may select a higher priced product where it reasonably determines that the product offers features lacking in the lowest priced product which are necessary to obtain effective performance. FAR, 48 C.F.R. § 8.405-1(a)(5). Where a contracting agency determines that justification exists for placing an FSS order with a higher priced vendor, our Office will object only if it can be shown that the determination lacks a reasonable basis. National Micrographics Systems, Inc., et al., B-220582, et al., Jan. 9, 1986, 86-1 CPD ¶ 22.

Here, with regard to the most important feature which, in VA's view, only Spacesaver offered--a carriage unlikely

to derail from the track--VA states that it observed flanged-wheeled systems identical to White's in operation at various clinics and concluded that systems with flanged wheels were unacceptable for its purposes because of the possibility of derailment. While White states that its wheels, although flanged, are designed differently from those in the systems observed by VA and that its system was not observed by VA, White does not explain how its design is different and why this different design protects against derailment. Absent such a demonstration by White, we see no basis to conclude that VA's evaluation of White's system with regard to the potential for derailment was unreasonable.

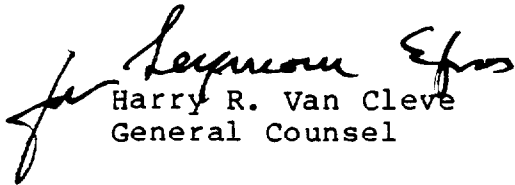
White also disagrees with VA's conclusion that the Spacesaver system minimizes the risk of derailment since VA does not state that Spacesaver's system has been tested to support that conclusion. VA's assessment of the Spacesaver system was based on its design; specifically, the system uses large-diameter wheels and lateral side bearings which stabilize and hold the carriage on track. Since White has offered no evidence to show that VA's conclusion that Spacesaver's design helps prevent derailment was unreasonable, we see no basis to conclude that actual testing of the system was required to support VA's conclusion.

Although the protection against derailment offered by Spacesaver was the most important feature, VA also identified numerous other features of the Spacesaver system which, in VA's view, would result in more effective performance. While White disagrees with VA's conclusions regarding the advantages of the Spacesaver system compared to its own system, White has not shown that VA's conclusions lacked a reasonable basis overall. As a result, we see no basis to disturb VA's determination that award to Spacesaver was justified.

Finally, White's argument that VA improperly revised its requirements to conform to Spacesaver's system is without merit. As a preliminary matter, the record does not show that VA changed the features it required. As discussed above, each vendor was given a tour of the area where the system was to be used and was advised orally of VA's general requirements. After examining the systems offered, VA selected Spacesaver's system as best meeting its needs. In any event, an agency's justification for selecting a higher priced vendor may be based on considerations not identified in the request for quotations (RFQ) issued to the FSS vendors. Vendors responding to an RFQ for equipment on an FSS do not submit offers that define exactly what the vendor would provide at what price; that already is defined

by their FSS contracts. Since the RFQ thus is intended merely to identify suitable equipment already listed on the FSS, evaluation of the equipment is not limited to consideration of its conformance with the requirements included in the RFQ. Lanier Business Products, Inc., B-223675, supra.

The protest is denied.

  
Harry R. Van Cleve  
General Counsel